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TROUTMAN SANDERS, LLP
ATTENTION: PATENT DOCKETING CLERK - 46TH
600 PEACHTREE STREET, N.E., SUITE 5200
ATLANTA, GA 30308-2216

In re Application of
Even, et al.
Application No. 09/852,438
Filed: May 9, 2001
Attorney Docket No. ACC3.CIP

OFFICE OF PETITIONS
DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.10, filed June 8, 2001, requesting that the above-identified application be accorded a filing date of May 9, 2001, rather than the presently accorded filing date of May 8, 2001.

Petitioner maintains that the above-identified application was deposited in the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) on May 9, 2001, pursuant to 37 CFR 1.10. However, the Office erroneously accorded the application a filing date of May 8, 2001.

The instant petition was filed promptly. In support of the petition, petitioner submitted a return postcard receipt with a United States Patent and Trademark Office date-stamp of May 8, 2001, and a "true" copy of the "Express Mail Post Office to Addressee" mailing label purportedly showing a "date-in" of May 9, 2001. Unfortunately, the date-in on the Express Mail label is not legible. Nonetheless, information (a copy of which is enclosed) retrieved from a USPS database shows that the package bearing Express Mail label No. EL812326664US, the Express Mail label number located on the original application papers, was accepted by the USPS on May 9, 2001 at 10:36 in the evening. In view of this evidence, the requirement of 37 CFR 1.10(c) for a true copy of the Express Mail mailing label is hereby waived, *sua sponte*, under 37 CFR 1.183.

The petition is granted.

No petition fee is necessary and none has been charged.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to May 9, 2001, and completion of pre-examination processing.

Telephone inquiries specific to this decision may be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Christina T. Larter for
Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure